

3. Because the Department had sent a notice advising Complainant that the last date for filing a Complaint was August 3, 2009, Complainant filed his Complaint.
4. The Complaint was filed on July 29, 2009.
5. The Department's letter/notice was in error.
6. The Charge is still pending at the Department.
7. Because of the pending investigation at the Department, both parties agree to dismissal of the instant Complaint at this time, without prejudice, and therefore, filed a Stipulation.

Conclusions of Law

1. Complainant is an individual claiming to be aggrieved by a violation of the Illinois Human Rights Act, ("Act") 775 ILCS 5/1-102 *et seq.*
2. The Commission has the authority to determine whether jurisdiction over the matter exists.
3. Section 7A-102(G)(2) provides that an aggrieved party may individually file a complaint with the Commission between 365 and 455 days after the charge is filed, or such longer period agreed to in writing by all parties.
4. An aggrieved party may not file a complaint outside the 900-day time period provided by 7A-102(G)(2) of the Act.
5. If an aggrieved party files a complaint either before or after the 90-day period granted by 7A-102(G)(2), that complaint is a nullity and the Commission has no jurisdiction over it.
6. The Complaint is not timely because Complainant filed it before the 90-day time period had begun.
7. Because Complainant did not file his Complaint in a timely fashion, within the 90-day period provided by 7A-102(G)(2) of the Act, the Commission does not have jurisdiction over the Complaint.

Discussion

The parties' request the Commission dismiss the Complaint, without prejudice, because the Complainant failed to file his Complaint within the 90-day window in accordance with 775 ILCS 5/7A-102(G)(2). The Commission has considered numerous cases in which aggrieved parties have filed their own complaints outside the 90-day period. Whether those parties have filed their complaints after the period has begun or before the period has begun, the Commission has found the attempted filings to be jurisdictionally deficient. **David v. Human Rights Com'n**, 286 Ill App3d 508 (1997); see also **Brumzick and Intern'l Paper Co.**, IHRC, ALS No. 5514(s), June 24, 1992.

Recommendation

I recommend that the Commission dismiss the Complaint, without prejudice. However, since the Charge is still pending at the Department, the Charge should remain active, and not be dismissed.

HUMAN RIGHTS COMMISSION

BY: _____
REVA S. BAUCH
DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW DIVISION

ENTERED: October 27, 2009

